

2005 Senate Bill 161

Date of enactment: **April 14, 2006**
Date of publication*: **April 28, 2006**

2005 WISCONSIN ACT 325

AN ACT *to amend* 814.04 (intro.); and *to create* 895.506 of the statutes; **relating to:** civil liability exemption for claims resulting from weight gain and obesity.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 814.04 (intro.) of the statutes is amended to read:

814.04 Items of costs. (intro.) Except as provided in ss. 93.20, 100.30 (5m), 106.50 (6) (i) and (6m) (a), 115.80 (9), 281.36 (2) (b) 1., 767.33 (4) (d), 769.313, 814.025, 814.245, 895.035 (4), 895.10 (3), 895.506, 895.75 (3), 895.77 (2), 895.79 (3), 895.80 (3), 943.212 (2) (b), 943.245 (2) (d) and 943.51 (2) (b), when allowed costs shall be as follows:

SECTION 2. 895.506 of the statutes is created to read:

895.506 Liability exemption; weight gain and obesity claims. (1) Any person who manufactures, markets, packs, distributes, advertises, or sells food, as defined in 21 USC 321 (f), is immune from civil liability for a person's weight gain or obesity caused by the consumption of the food, or for a health condition related to weight gain or obesity.

(2) Subsection (1) does not apply to any of the following:

(a) A claim that a defendant under sub. (1) knowingly violated a federal or state law concerning the manufacturing, marketing, distribution, advertisement, labeling, or sale of the food, and the violation was the proximate cause of the weight gain, obesity, or related health condition.

(b) A claim for breach of contract or express warranty in connection with the purchase of the food.

(c) A claim regarding the sale of food that is adulterated under 21 USC 342.

(3) In addition to the costs allowed under s. 814.04, a defendant that prevails on a motion under s. 802.08 filed in an action under sub. (2) may recover reasonable attorney fees and the costs of the investigation and litigation.

SECTION 3. Initial applicability.

(1) This act first applies to actions pending on the effective date of this subsection.

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].